

Notice of Allowability

Application No.

10/537,338

Examiner

Lisa J. Hobbs

Applicant(s)

YAMAMOTO ET AL.

Art Unit

1657

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Request for Continued Examination filed 11/15/2007.
2. ☒ The allowed claim(s) is/are 19-22.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Lisa J. Hobbs
Primary Examiner
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DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on June 2, 2005, October 3, 2006, and August 1, 2007, are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements were considered by the examiner and signed copies returned with previous actions.

Oath/Declaration

The declaration submitted on November 15, 2007, is in compliance with the provisions of 37 CFR 1.132. Accordingly, the declaration is being considered by the examiner.

Claim Status

Claims 19-22 are active in the case. Claims 1-18 have been cancelled by amendment. Claims 19-22 are under examination; no claims are withdrawn as drawn to a non-elected invention.

Examiner's Amendment

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An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In claim 20, please delete the following: "as claimed in claim 1" and substitute therefor --as claimed in claim 19--.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance. There were three outstanding issues remaining in the prosecution of the instant application. First, information regarding the appropriate wavelength for the detection of ubiquinol. As discussed in the remarks and provided in the specification, and by Mosca, the specific wavelength to be used to measure ubiquinone is provided, but does not apply to ubiquinol; however, upon a review of the art, and as disclosed in applicants' remarks of November 15, 2007, it would be expected that one of skill in this art would be able to determine the proper wavelength to measure a standard compound such as ubiquinol. As well, the specific information was provided as requested by the examiner, supporting the withdrawal of the rejection under 35 USC 112 first paragraph.

The second issue is resolved by the amendment to claim 22 to separate the UV detection step from the electrochemical detection step, thus overcoming the rejection under 35 USC 112 first paragraph.

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Finally, applicants' arguments, along with the declaration under 37 CFR 1.132 filed November 15, 2007, are sufficient to overcome the rejection under 35 USC 102(b) of claims 19-21 based upon Edlund. In the advisory action, it was stated that that the instant application claims any closed container through which an analyte is passed. Claims 19 and 21 now recite that the reduction column is a non-coulometric cell, while Edlund specifically states a coulometric cell. As well, the declaration and the previously submitted scientific dictionary information further support the assertion that one of skill in the art would not interpret a coulometric detection cell as a column created for the purposes of reducing a sample while it is being passed through the column.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa J. Hobbs whose telephone number is 571-272-3373. The examiner can normally be reached on Monday through Thursday, 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon P. Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Lisa J. Hobbs
Primary Examiner
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1/2/08

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